

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
Cannon Health Building Room 125
288 North 1460 West
Salt Lake City, Utah 84116
January 21, 2005
9:35 a.m.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Dave Echols	Dianne Nielson
Ray Child	Jay Olsen
Paula Doughty	Mayor Joe Piccolo
Neil Kochenour	Ron Sims
Mayor Douglas Thompson	Ann Wechsler

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, Randy Taylor, Faye Bell, Bill Moellmer, Theron Miller, Karin Tatum, Sid Curnow, Jennifer Robinson, Judy Etherington, Kiran Bhayani, Mike Hanson, Harry Judd, Liz Taylor, Gennaro Dicaldo, Tim Beavers, Paul Krauth

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
Fred Nelson	Attorney Generals Office
Mark Davidson	Sunrise Engineering
Ronald Day	CVWRF
Chuck Dickson	Manila
Allen Campbell	Daggett County Sheriff Office
Rep David Ure	Utah House of Representatives
Peter Ure	Intern Utah House of Representatives
Phil Wright	Wasatch District Health Dept
Royal Delegge	Salt Lake Valley Health Dept
Mary Hazard	Weber Morgan Health
Ivan Anderson	North Davis Sewer Dist.
Preston Kirk	George K. Brum & Co.
Kevin Cowan	North Davis Sewer Dist
Craig Call	Property Rights Ombudsman – DNR
George McPhie	Private Citizen
Reed Fisher	CVWRF
Leland Meyers	Central Davis Sewer District
Tom Johnson	Private Citizen
Kaye McPhie	Private Citizen
Craig Collett	Daggett County Commission
Jim Denny	Sunrise Engineering
Jim Schwing	CH2M Hill
Cary Peterson	Former Commissioner of Agriculture

Chairman Child called the Board meeting to order at 9:35 a.m. He welcomed those in attendance. Mr. Child invited the members of the audience to introduce themselves.

Manila Town loan request (1st Hearing): In order to meet time constraints of Representative Ure from the Legislature, Mr. Child moved up Manila's loan request introduction. Tim Beavers introduced Mayor Chuck Dickison of Manila; Allen Campbell, Daggett County Sheriff's Office, Rep. David Ure, Utah House of Representatives; Craig Collett, Daggett County Commissioner, and Jim Denny from Sunrise Engineering. On May 17, 2002, the Water Quality Board authorized a \$323,000, 0% interest, 20-year loan to Daggett County to implement Alternative No. 4, construct a total containment lagoon system to service only the jail. However, the Board unanimously passed a second motion to encourage DWQ staff, Daggett County and Manila Town to explore the option of constructing a sewer line to Manila to serve the Daggett County jail. Following numerous meetings with the involvement and facilitation of Representative David Ure and Lt. Governor Gayle McKeachnie, the Town of Manila, the Daggett County Water and Sewer District and Daggett County have discussed and agreed on a solution for both the culinary and wastewater issues for the jail and the surrounding area. The arrangement calls for the Town of Manila to request \$925,000 in financial assistance to finance a sewer pipeline to replace the on-site septic tank drainfield system at the Daggett County jail. The Town of Manila will construct an approximate 3-mile long, 8-inch diameter gravity sewer line from its wastewater collection system to the jail. The collection line will service the Daggett County jail and county residences. Manila's wastewater treatment lagoons will provide treatment. Staff will make a recommendation at the next Board meeting.

APPROVAL OF MINUTES OF THE NOVEMBER 19, 2004 MEETING

Motion: It was moved by Dr. Sims and seconded by Dr. Kochenour to approve the minutes of the November 19, 2004 Board meeting. The motion was to unanimously approve the minutes with no changes.

Presentation of Appreciation Awards: Mr. Child presented a gift of appreciation from the Water Quality Board to Commissioner Cary Peterson expressing thanks for his many years as a strong advocate and partner in water quality protection and watershed restoration in Utah.

Presentation on the flooding in St. George: Paul Krauth and Jen Robinson, staff from the Division of Water Quality, presented to the Board an overview of the problems resulting from the flooding of the Santa Clara and Virgin Rivers in St. George and surrounding communities.

Recommendations to fill two vacancies on the Wastewater Operator Certification Council for 2005-2007: Judy Etherington recommended that Dr. Robert W. Okey and Dr. James Callison be reappointed to fill the two vacancies representing faculty at a university in Utah and vocational training, respectively. Their terms would begin immediately and continue through December 31, 2007.

Motion: It was moved by Dr. Sims and seconded by Dr. Kochneour to approve the recommended reappointments. The motion was unanimously approved.

Appeals to the Water Quality Board regarding on-site system requirements: Mr. Mike Hanson from the Division of Water Quality responded to Ms. Kaye McPhie's petition to repeal or amend the requirements related to slope and separation from dry wash or gully, takes R317-4, Onsite Wastewater Systems.

Petition to the Water Quality Board regarding onsite wastewater system requirements:

Mr. Mike Hanson from the Division of Water Quality addressed:

A) Ms. Kaye McPhie's Petition:

- 1) to repeal the requirements for an absorption system related to maximum slope and separation distance from a dry wash, gulch or gully,
- 2) or to amend *R317-4, Onsite Wastewater Systems Rule* to allow for a variance procedure..

B) Mr. Tom Johnson's request to join the Petition to be allowed to build an onsite system on his property even though the maximum slope requirement of the rule is not met.

Mr. Hanson made a presentation reviewing the information gathered in consultation with private, regulatory, and academic professionals. The staff found the requirements of the rule supported by best engineering practices and consistent with other states' requirements. Staff explained that the existing rule does provide a variance procedure for slopes greater than between 15-25 percent. Staff recommended that no changes to the *R317-4 Onsite Wastewater Systems*, be made and that Ms. McPhie's petition and Mr. Johnson's request be denied.

In response to this recommendation by staff, Mr. and Ms. McPhie and Mr. Johnson, presented their arguments. Ms. McPhie sought a repeal of or establishing a variance provision from of the slope requirements for lot #1405. She requested the same for lot #1401, including a repeal of or variance from the separation distance requirements.

The Board recognized that the rule can only exist and be enforced when boundaries are established.

Mr. Fred Nelson, Assistant Attorney General, responded to the issue of "taking" by reminding the Board that they were not making a determination as to whether a "taking" had occurred but rather making a decision on whether to revise the administrative rules.

Mr. Tom Johnson felt that the Board should allow him to construct an onsite system on his property on the basis that properties near him have onsite systems not meeting the current Onsite Wastewater Systems rule. He conceded that this would necessitate a variance by the Board as his lot did not meet the slope requirements of *R317-4*.

The Board recognized that systems not meeting the Onsite Wastewater Systems rule historically or currently may have been permitted. However, their existence does not alone justify changing the rule.

Both Ms. McPhie and Mr. Johnson pointed out that they had purchased their lots in good faith, expecting that they could one day build on them.

Mr. Craig Call, State Property Rights Ombudsman, addressed the Board with his interpretation that the Board was required to respond to the Petition in 30 days and that the 30 day time period had not been met, therefore *R317-4* was automatically amended as requested by Ms. McPhie. Mr. Nelson disagreed, by replying that a response from the Board had been submitted to Mrs. McPhie within the 30 days indicating that the Board had referred the matter to staff to review and provide a recommendation and that the Board would be hearing her Petition at this January 21st meeting.

Mr. Jay Olsen, Board member, inquired of Mr. Hanson of other potential technologies that may allow wastewater disposal on these lots and still meet public health and environmental

protection. Mr. Hanson mentioned other technologies, and indicated that the technical issues were more of disposal, not just treatment. Slope requirements and separation distances from potential watercourses were not functions of wastewater treatment as much as disposal. Mr. Kiran Bhayani, commented during a discussion on treatment technology that the issue is not one of effluent quality but of hydraulics and the hydrogeological aspects of effluent disposal and the cumulative effect of wastewater effluent disposed in the area.

Motion: **It was moved by Dr. Kochenour to accept staff's recommendations, and deny the Petition for repeal of or establishing a variance paragraph in the rules for minimum requirements for onsite wastewater systems. The motion was seconded by Ms. Wechsler and was unanimously approved.**

The Board directed the Division and the Attorney General's Office to prepare written findings and conclusions to be reviewed and approved by the Board at its next meeting.

LOAN PROGRAM

Financial Assistance Status Report – Mr. Curnow updated the Board on the “Summary of Assistance Program Funds” as outlined on page 4.1 and 4.2.

2004 SRF Annual Report – Mr. Curnow distributed copies of the “*Utah State Revolving Fund Annual Report Fiscal Year 2004*” to the Board and then proceeded to review the reports findings with the Board.

Central Davis Sewer District request for changes to loan terms: Mr. Macauley introduced Leland Myers, District Manager. Central Davis County Water District is requesting a \$3,105,000, 20-year, 0.50% interest loan. This loan would replace the previously authorized \$2,700,000, 1.90% interest loan originally granted on October 18, 2002 for a sewer project that included \$200,000 to perform a nutrient study of Farmington Bay. Early in the study, CDSO realized the need to expand the scope of work to provide additional information critical to future planning efforts. Staff recommends that the Board authorize a loan to CDSO of \$3,105,000 at 0.50% interest to replace its current loan of \$2,700,000 at 1.90% interest. The proposed loan changes will make \$405,000 available to further the Farmington Bay research/study.

Motion: **It was moved by Mr. Sims to approve the requested changes to the previous loan terms, authorizing a loan in the amount of \$3,105,000, 20-year, 0.50% interest loan. The motion was seconded by Ms. Doughty and was unanimously approved.**

North Davis Sewer District request for changes to loan terms: Ms. Tatum introduced Kevin Cowan and Ivan Anderson with North Davis Sewer District and Preston Kirk with George K. Brum & Co., the District's financial advisor. North Davis Sewer District is requesting a loan for its wastewater project in the amount of \$20,900,000 with an interest rate of 2.32% that will replace a previously authorized loan in the amount of \$20,000,000 with an interest rate of 2.74%. The additional \$900,000 will be used to purchase bond insurance as well as contribute to a selenium study on the Great Salt Lake. This study could have a dramatic affect on the District's discharge standards and treatment processes. Staff recommended the existing loan of

\$20,000,000 at 2.74% interest be paid off in full with the new loan of \$20,900,000 at 2.32% interest.

Motion: It was moved by Mr. Echols to approve the requested changes to the previous loan terms, authorizing a new loan in the amount of \$20,900,000 at 2.32% interest loan, with the associated special conditions. The motion was seconded by Dr. Kochenour and was unanimously approved.

Central Valley Water Reclamation Facility loan request (1st Hearing): Chairman Ray Child asked to be excused from participating in this request due to a conflict of interest. Ms. Tatum introduced Reed Fisher, General Manager of CVWRF to the Board. CVWRF is requesting funding in the amount of \$35,000,000, to bring ownership of existing facilities under central control and construct various wastewater treatment facility improvements that are necessary to keep pace with the growth of member entities and insure continued compliance with UPDES permit limitations and Biosolids permit requirement. Staff recommends this project. Currently, there is an excess of funds available in the SRF. This loan will increase the fund utilization rate for this program while providing \$11,025,000 to the Hardship Grant Fund over the life of the loan. The Hardship Grant Fund provides much needed funding for planning advances and hardship construction grants to communities that could not otherwise meet affordability guidelines for wastewater project construction.

Logan City request for Planning Advance: Mayor Thompson and Ron Sims asked to be excused from participating on this request due to conflicts of interest. Mr. Beavers introduced Mayor Thompson and Lance, of Logan City. The City of Logan is requesting a Planning Advance in the amount of \$206,000 to perform facility planning for its wastewater collection and treatment systems and to complete planning for three wastewater capital improvements projects that need to be constructed. Staff recommends approval of this request.

Motion: It was moved by Mayor Piccolo to approve Logan City's request for a Planning Advance in the amount of \$206,000 with the associated special conditions. The motion was seconded by Mr. Olsen and was unanimously approved.

OTHER BUSINESS:

EPA Animal Feeding Operations (AFO): Dianne Nielson, Department of Environmental Quality Director, informed the Board that EPA issued a news release today announcing "Air Quality Compliance Agreement for Animal Feeding Operations". This will ensure AFOs comply with applicable clean air requirements. A copy of the news release will be e-mailed to all Board members.

NEXT MEETING

The next Water Quality Board voted to cancel the Board meeting scheduled for February 18th and hold the next meeting on Monday March 7th in the St. George Council Chambers, at 1:30 p.m. The meeting will be in conjunction with the Water Users Workshop being held in St. George.

Ray Child, Chairman